

Appl. No. 10/301,224

Reply to Examiner's Action dated December 23, 2005

REMARKS/ARGUMENTS

The Applicants have carefully considered this application in connection with the Examiner's Action and respectfully request reconsideration of this application in view of the foregoing amendment and the following remarks.

The Applicants originally submitted Claims 1-20 in the application. In response to a previous restriction requirement, the Applicants withdrew Claims 1-8. Presently, the Applicants have amended Claim 18 and canceled Claim 19 without prejudice or disclaimer. No other Claims have been amended, canceled or added. Accordingly, Claims 9-18 and 20 are currently pending in the application.

I. Rejection of Claims 9-12, 14-16 and 18-20 under 35 U.S.C. §102

The Examiner has rejected Claims 9-12, 14-16 and 18-20 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,741,334 to Asano, *et al.* ("Asano"). Independent Claims 9 and 18, in one form or another, include the elements of patterning a material using a reticle having a test pattern, and visually inspecting the material for light and dark regions, the light and dark regions representing a variance in the patterned layer. Asano fails to disclose these elements.

Asano is directed to an exposure method, exposure system and recording medium. (Title). Asano teaches that a photomask 10 having a device pattern 8 in a center thereof and reference marks 9 along a periphery thereof may be used to determine an optimum exposure condition for patterning resist. More specifically, Asano teaches exposing a light on the photomask 10 having the device pattern 8 and reference marks 9 in an exposing device, receiving in the exposing device the light

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which passed through the photomask 10 to observe an optical image of the device pattern 8 and reference marks 9 based on the received light, deciding an optimum exposure condition based on the optical image of the device pattern 8 and reference marks 9 to form a predetermined resist pattern, and exposing a light on a photoresist film formed on a wafer via the photomask based on the optimum exposure condition. (Abstract). Accordingly, Asano teaches that the photomask 10 having the device pattern 8 and reference marks 9 is exposed to a light source, and that the light source exiting the photomask 10 is inspected, as opposed to patterning a material using a reticle having a test pattern, and visually inspecting the material for light and dark regions, the light and dark regions representing a variance in the patterned layer as is currently claimed. Thus wherein Asano is testing (in one fashion or another) the photomask 10 having the reference marks 9, the presently claimed invention is patterning a material (resist material in Claim 18) and testing the patterned material (e.g., by visually inspecting the material for light and dark regions, the light and dark regions representing a variance in the patterned layer). The two ideas are separate and distinct.

Therefore, Asano does not disclose each and every element of the claimed invention and as such, is not an anticipating reference. Because Claims 10-12, 14-16 and 19-20 are dependent upon Claims 9 and 18, Asano also cannot be an anticipating reference for Claims 10-12, 14-16 and 19-20. Accordingly, the Applicants respectfully request the Examiner to withdraw the §102 rejection with respect to these Claims.

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II. Rejection of Claims 13 and 16-17 under 35 U.S.C. §103

The Examiner has rejected Claims 13 and 16-17 under 35 U.S.C. §103(a) as being unpatentable over Asano, as applied to Claims 9-12 and 14-15 above, and further in view of U.S. Patent No. 5,914,784 to Ausschnitt, *et al.* ("Aus"). As discussed above, independent Claims 9 and 18, in one form or another, include the elements of patterning a material using a reticle having a test pattern, and visually inspecting the material for light and dark regions, the light and dark regions representing a variance in the patterned layer. As established above, Asano fails to disclose these elements.

Asano also fails to suggest these elements. Asano fails to suggest these elements because Asano specifically requires testing (in one fashion or another) the photomask 10 having the reference marks 9, as opposed to patterning a material (resist material in Claim 18) and testing the patterned material (e.g., by visually inspecting the material for light and dark regions, the light and dark regions representing a variance in the patterned layer), as is presently claimed. Thus, Asano fails to teach or suggest the aforementioned claimed element.

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Aus fails to correct the deficiencies of Asano. The Examiner is offering Aus for the propositions of a pitch less than about $3/2$ of the wavelength in use, visually inspecting the material using an optical microscope, and changing the focus on the optical microscope to make the light and dark regions become more pronounced. Without even addressing whether the Examiner's propositions are accurate, a teaching or suggestion of a pitch less than about $3/2$ of the wavelength in use, visually inspecting the material using an optical microscope, and changing the focus on the optical microscope to make the light and dark regions become more pronounced are entirely different from a teaching or suggestion of patterning a material using a reticle having a test pattern, and visually inspecting the material for light and dark regions, the light and dark regions representing a variance in the patterned layer, as currently claimed. Accordingly, Aus also fails to teach or suggest this claimed element.

Asano, individually or in combination with Aus, fails to teach or suggest the invention recited in independent Claims 9 and 18 and their dependent claims, when considered as a whole. Thus, the combination fails to establish a prima facie case of obviousness with respect to these claims. Claims 13 and 16-17 are therefore not obvious in view of the references.

In view of the foregoing remarks, the cited references do not support the Examiner's rejection of Claims 13 and 16-17 under 35 U.S.C. §103(a). The Applicants therefore respectfully request the Examiner withdraw the rejection.

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III. Conclusion

In view of the foregoing amendment and remarks, the Applicants now see all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 9-18 and 20.

The Applicants request the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account No. 20-0668.

Respectfully submitted,

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